



2633

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: TREZZA, John A.

Group Art Unit: 2633

#7

Serial No. 09/737,226

Examiner: NEGASH K. M.

Filed: 12/14/2000

Atty. Dkt. No: LSC-141J

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CERTIFICATE OF MAILING 37 CFR 1.8: I certify that this correspondence is being deposited on the below date with the U.S. Postal Service with sufficient postage as FIRST CLASS MAIL addressed to: Mail Stop IDS, Commissioner of Patents, PO Box 1450, Alexandria, VA 22313-1450

Date: 06/23/2003

Debra A. Stengel
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Commissioner:

INFORMATION DISCLOSURE STATEMENT

The under-signed Attorney submits this statement in accordance to the duty of disclosure under 37 C.F.R. §§1.56, 1.97, and 1.98.

Compliance with 37 C.F.R. §1.97: This Information Disclosure Statement is filed before the mailing date of a first office action on the merits. No fee or certification is required.

Information Cited: The Applicant/Attorney hereby make of record in the above-identified application, the statements herein.

STATEMENT

It has come to the attention of the under-signed attorney that there was a civil litigation involving several inventor(s) in the above-referenced patent application. The case was tried in the Superior Court of the State of New Hampshire – Lockheed Martin Corp. d/b/a Sanders, A Lockheed Company v. Spencer Trask Intellectual Capital Company, LLC, A Delaware Limited Liability Company; Parallel Lightwaves Inc., A Delaware Corporation; John A. Trezza; Richard P. Stack; Keith Kang; Gregory K. Dudoff; Jeffrey S. Powell; Rien C. Gahlsdorf; Thomas S. Faska; Ronald J. Olson Jr.; Theodore J. Wyman; and Patricia V. Jasion - No. 00-E-0125.

All files related therewith are sealed by a court order and are not available for public dissemination. These materials were recently made available to me for review and the under-signed has reviewed the following:

- 1) Deposition of John Trezza (Volume I and Volume II – May 25 and May 26, 2000 respectively) approximately 500 pages including exhibits.
- 2) Pleadings file including petitions, orders, motions, memorandum and affidavits (dating April – June 2000) at least approximately 500 pages

Pursuant to the duties and obligations under 37 CFR 1.56, the under-signed has spent time evaluating the relevance of these materials and whether they are material to the invention disclosed in the above-referenced patent application.

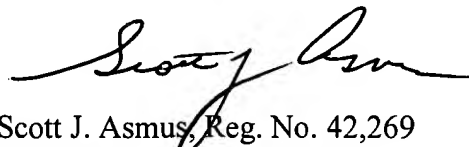
Without violating the court order with respect to disclosing the specifics, it is my opinion that the court materials make general references to the technology without making specific references to the particulars of the present invention. The timing is such that all the court materials pre-date the filing of the present patent application. Finally, the inventor reviewed the application and signed the declaration. The declaration requires the inventor to acknowledge that there is an invention and attest to certain facts concerning the inventive subject matter and the duty of disclosure to provide references related to the invention.

Therefore, for the following reasons, the undersigned does not find the court documents to be material, but rather cumulative of the information already of record:

- 1) known relevant references cited in the court documents or provided by inventors have already been provided to the Patent Office in previous Information Disclosure Statements;
- 2) the statements made in the affidavits are generalities and not directed to the present application;
- 3) the court documents are all prior to the filing of the utility patent application;
- 4) the inventor(s) later reviewed and signed declarations attesting to the subject matter of the patent application;
- 5) the court documents include numerous counts/allegations not applicable to the actual invention, thus providing peripheral information with minimal content; and
- 6) while the defendants (inventor) allege that there were no trade secrets covering the general technology, and thus no inventions, the plaintiffs provided ample evidence to the contrary and the court ruled in favor of the plaintiffs.

While I believe these court materials to be merely cumulative, the under-signed also wishes to make these files available to the Patent Office upon request. These court files are still sealed under the court order of the Superior Court by Justice Brennan, but can be obtained if the Office desires to review these files subject to certain requirements. (see MPEP 724)

Respectfully submitted,



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